

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY WILLIAMS,	§
	§ No. 381, 2023
Defendant Below,	§
Appellant,	§ Court Below–Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 1804003122 (K)
STATE OF DELAWARE,	§
	§
Appellee.	§

Submitted: November 20, 2023
Decided: December 4, 2023

Before **VALIHURA, TRAYNOR, and LEGROW**, Justices.

ORDER

After consideration of the notice to show cause and the responses thereto, it appears to the Court that:

(1) On October 12, 2023, the appellant, Anthony Williams, filed a notice of appeal from a September 5, 2023 Superior Court order sentencing him for a violation of probation (“VOP”). Under Supreme Court Rule 6, a timely notice of appeal was due on or before October 5, 2023.¹ The Senior Court Clerk therefore issued a notice directing Williams to show cause his appeal should not be dismissed as untimely filed.

¹ Del. Supr. Ct. R. 6(a).

(2) In his response to the notice to show cause, Williams asserts that he did not receive notice of his right to appeal in court on September 5, 2023, and that the notice was later delivered to him at the prison by mail. Williams claims that he was unable to file a timely notice of appeal because administrative hurdles prevented him from accessing the prison library in a timely fashion.

(3) At the Court's request, Williams's attorney responded to Williams's claim that he did not receive notice of his right to appeal at the September 5, 2023 VOP hearing. Williams's attorney states that it is her practice to provide a hard copy of the standard "Advice Regarding Appeal from Violation of Probation" form—which (i) informs her client that there is a 30-day window to appeal, (ii) advises him that she will not be filing an appeal on his behalf, and (iii) directs him to the Court's rules that contain information necessary to file an appeal—at the podium following a VOP hearing. Williams's attorney recalls, however, that Williams was removed from the courtroom abruptly at the end of the September 5, 2023 VOP hearing and states that the form was therefore likely mailed to Williams later that day. The prison mail log corroborates Williams's attorney's recollection and indicates that Williams received mail from the Public Defender's Office in Kent County on September 8, 2023, with plenty of time to file a timely notice of appeal.

(4) Time is a jurisdictional requirement.² A notice of appeal must be received by the Court within the applicable time period to be effective.³ An appellant's prisoner *pro se* status does not excuse his failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless an appellant can demonstrate that his failure to file a timely notice of appeal is attributable to court-related personnel, the appeal cannot be considered.⁵

(5) The record does not reflect that Williams's failure to file a timely notice of appeal from the September 5, 2023 VOP order is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal, and this appeal must be dismissed.

NOW, THEREFORE, IT IS HEREBY ORDERED, under Supreme Court Rule 29(b), that the appeal be DISMISSED.

BY THE COURT:

/s/ Gary F. Traynor
Justice

² *Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

³ Del. Supr. Ct. R. 10(a).

⁴ *See Smith v. State*, 47 A.3d 481 (Del. 2012).

⁵ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).